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RM/R file
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TO: Secretary of State
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SENT DEPARTMENT 6160; REPEATED INFORMATION PARIS 1021,
BONN 444, MOSCOW 284, BERLIN 165, GENEVA 139.RE DEPTEL 10250 9656.5411
YR 353

PROPOSED REPLY TO SOVIET NOTE OF APRIL 28 ON HIGH-ALTITUDE FLIGHTS TO BERLIN HAS BEEN STUDIED BY FOREIGN SECRETARY. HE BELIEVES THAT FROM POLITICAL POINT OF VIEW BEST TO LET SLEEPING DOGS LIE PARTICULARLY SINCE SOVIET NOTE IS MONTH OLD. LEGAL ADVISER ALSO RAISED OBJECTIONS TO PROPOSAL ON GROUNDS THAT QUADRIPARTITE AGREEMENT OF NOVEMBER 28, 1945 DOES NOT PROVIDE CLEAR LEGAL AUTHORIZATION FOR CIVIL AIRLINES TO OPERATE IN CORRIDORS AND THIS FACT MIGHT COUNT AGAINST WEST IF MATTER ACTUALLY CAME BEFORE INTERNATIONAL COURT. COURT MIGHT ALSO WISH TO HEAR GDR AND THIS TOO MIGHT BE UNDESIRABLE FROM WESTERN POINT OF VIEW. FINALLY LEGAL ADVISER HAS EXPRESSED OPINION THAT REQUEST FOR ADVISORY OPINION FROM COURT WOULD NECESSARILY INVOLVE GENERAL ASSEMBLY IN MATTER SINCE ACTUAL REQUEST FOR ADVISORY OPINION WOULD HAVE TO ORIGINATE WITH GA, AND THIS UNDESIRABLE UNTIL LARGER QUESTION OF TIMING REFERENCE BERLIN PROBLEM TO UN DECIDED.

* WHITNEY

DEPARTMENT OF STATE

APPROVAL REVIEW DATE: 14/7/81

Classification Review By *file*

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() RETAIN CLASSIFICATION (a)

PA (b) (6) (a) (7) (c)

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